IN THE HIGH COURT OF JUDICATURE AT JABALPUR

Writ Petition No. 385 of 1999

Writ Petition Under Article 226 / 227 of the Constitution of India .

Petitioner : Kukreja Industries a partnership concern through it`s partner Shri.Narsingh Kukreja S/o Late Shri. Nianumal Kukreja ,20-B , Light Industiral area , Bhilai

Versus

Respondent`s :

1. The State of Madhya Pradesh through the Collector , Durg (M.P)
2. The Inspector General of Registration and Superintendent of stamps , Govt of Madhya Pradesh , Gwalior (M.P)
3. The District Registrar and Collector of stamps , Durg (M.P)
4. State Bank of India , Industrial Estate Branch , Bhilai - 490 026 (M.P)

The Petitioner most humbly submits as under :

1. Particulars of the Petitioner .

The Petitioner is a partnership concern regsitered under the Indian Partnership Act having its manufacturing unit at the address given in the cause - title . The Petitioner is a legal entity and adversely affected by the impugned actions of the Respondent state Authorities adumberated in the succeeding paragraphs of this petition .

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(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: -

HON'BLE SHRI FAKHRUDDIN, Ag.C.J.
& HON'BLE SHRI SUNIL KUMAR SINHA, J.

11/03/2005: -

None for the petitioner though fixed date SPC was issued to the petitioner on 09/02/2005.

Shri Prashant Mishra, Addl. Advocate General, with Shri N.K. Agrawal, Dy. A.G., for the State/respondents.

Heard.

This case has been received on transfer from the High Court of Madhya Pradesh.

Learned counsel appearing for the State very fairly stated that this matter is squarely covered by order dated 07/02/2003 passed by the Division Bench of the High Court of Madhya Pradesh in bunch of cases bearing Writ Petition No.4854 of 1999 and the connected matters. This matter has also been reported in **2003 (I) MPJR - SN 62 {W.P. No. 4854 of 1999 – M/s. Vikas Concrete Industries Vs. State of M.P.}**

The points raised in this petition are similar to that of the points raised in aforesaid writ petitions and the same have been decided by Division Bench of the High Court of Madhya Pradesh. It is submitted that while deciding the aforesaid writ petitions, the Division Bench has observed as under:

(पीछे देखिये)

(38)

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आदेश पत्रक

मामला क्रमांक ..W.P.....

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(a) "There is a difference between the two concepts, namely, stamp duty and rate of duty;

(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List-III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e. 25/01/1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund."

In view of the submissions made by the counsel appearing for the State and, particularly the fact that this matter is squarely covered by the

(पीछे देखिये)

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मामला क्रमांक W.P.

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

decision of the Division Bench of High Court of Madhya Pradesh, this petition stands finally disposed of with the observations quoted above.

The security amount, if any, deposited, be refunded. There shall be no order as to costs.

Sd/-
Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge

Subby

(पीछे देखिये)